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August 12, 2024

The Honorable Margaret M. Garnett
United States District Court
Foley Square
New York, NY 10007

USDC SDNY
DOCUMENT
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DATE FILED: 8/20/2024

Re: Grand Associates, LLC, v. 4D Sight, Inc.
24 Civ. 03258 (MMG)

Dear Judge Garnett:

The undersigned is counsel to plaintiff Grand Associates, LLC. Plaintiff moves to strike or for the Court to otherwise disregard an untimely filing made by the defendant on August 9, 2024, in opposition to plaintiff's motion for a default judgment filed July 5, 2024.

Pursuant to the Order dated August 5, 2024 defendant failed to timely file its opposition papers to comply with the specific date set forth therein, "setting August 8, 2024 as defendant's deadline for opposition" (Docket no. 41). The August 8 deadline is also recited in the prior Order of July 17, 2024, proving defendant was very well aware by when to file opposing papers (Docket No. 36). In addition to its default to answer the complaint, defendant has again defaulted by failing to timely file opposition papers. Defendant has failed to move for an extension of time or for the Court to accept opposition papers that have been untimely filed.

Having failed to comply with the filing deadline recited in two Orders, defendant's excuses for failing to answer or move against the complaint should not be considered. Since defendant has defaulted both in answering the complaint and in timely filing its opposition papers, plaintiff's compliance with Bench Rule II(A)(5) should be waived and an inquest should be scheduled at the appearance before Your Honor set down for September 12, 2024.

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The defendant's delay in participating in this suit has caused and is causing prejudice to plaintiff with respect to seeking payment for defendant's business use of a residential apartment, as its principal Erhan Ciris has admitted in his verified answers filed in the Supreme and Civil Courts of New York State and City as set forth in the moving papers. In addition to defendant deceiving the plaintiff landlord regarding the apartment's actual use, the apartment has been vacated and plaintiff has to assume the costs to restore it to a habitable condition as a residence after having been improperly used for business purposes for approximately nineteen months.

I thank the Court for considering this request and am available to answer any questions.

Respectfully,



Gregory A. Sioris

DENIED. Defendant's opposition to the motion for default judgment was untimely by two hours. While Court deadlines should always be complied with, Plaintiff cannot possibly have been prejudiced by a delay of two hours. The Motion to Strike is therefore denied, and the parties are ORDERED to treat the Show Cause Hearing on September 12, 2024 as an Initial Pretrial Conference, and shall comply with this Court's Individual Rule II(B)(5) by submitting a joint letter and proposed Civil Case Management Plan and Scheduling Order by no later than **September 5, 2024**. Alternatively, if the parties request immediate referral to this Court's Annexed Mediation Program or a settlement conference with Magistrate Judge Parker, they shall so inform the Court by no later than the above deadline.

SO ORDERED. Dated August 20, 2024.



HON. MARGARET M. GARNETT
UNITED STATES DISTRICT JUDGE

cc: all counsel via ECF